

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CHRISTINE ALTER,

Plaintiff,

v.

CAROLYN W. COLVIN,
Commissioner of Social Security,

Defendant.

Case No. 1:12-cv-00737-AC

ORDER

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on October 30, 2013. Dkt. 21. Judge Acosta recommended that the Commissioner's decision be reversed and that Claimant Christine L. Alter's application for Disability Insurance Benefits ("DIB") under Title II of the Social Security Act ("SSA") be remanded for an award of benefits. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court

shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report[.]”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (the court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Acosta’s Findings and Recommendation, Dkt. 21. The Commissioner’s decision (Dkt. 10-3, at 21-35) is **REVERSED**. Alter’s appeal (Dkt. 1) is granted and this case is **REMANDED** for an award of benefits.

IT IS SO ORDERED.

DATED this 19th day of November, 2013.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge